

#129

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**(Case No. 99,372-A)**

**PATENT**

**In re Application of:** Welcher et al. )  
Serial No.: 09/724,860 ) Before the Examiner: J. Andres  
**Filed:** November 28, 2000 ) Group Art Unit: 1646  
**For:** Interferon-like Molecules )  
and Uses Thereof )

Commissioner for Patents  
Washington, D.C. 20231

Madam:

**DECLARATION**

1. Applicants deposited cDNA encoding human IFN-L polypeptide, subcloned into pSPORT1 (Gibco BRL) and transformed into *E. coli* strain DH10B, with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, VA 20110-2209.

2. The deposit was accepted by the ATCC, an International Depository Authority, under the provisions of the Budapest Treaty, and the deposit was designated as PTA-976. A copy of the ATCC receipt for this deposit, showing the patent deposit designation (Accession No. PTA-976) and the date on which the deposit was received by the ATCC (November 23, 1999) is attached.

3. Pursuant to 37 C.F.R. § 1.808(a)(2), the deposit was made under conditions that assure that all restrictions imposed by the depositors on the availability to the public of the deposited material would be irrevocably removed upon the granting of a patent relying on the deposited biological material.

4. In making the deposit, Applicants acknowledged their responsibility, pursuant to 37 C.F.R. § 1.805, to provide a replacement or supplemental deposit if the depository possessing the deposit is unable to furnish samples thereof or is able to furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

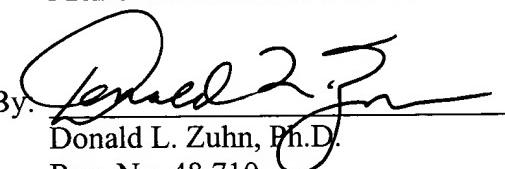
**BEST AVAILABLE COPY**

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,  
**McDonnell Boehnen Hulbert & Berghoff**

Dated: February 25, 2002

By:

  
Donald L. Zuhn, Ph.D.  
Reg. No. 48,710

# ATCC

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## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### ***INTERNATIONAL FORM***

#### **RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

**To: (Name and Address of Depositor or Attorney)**

Amgen Inc.  
Attn: Andrew Welcher  
One Amgen Center Drive  
Thousand Oaks, CA 91320-1799

**Deposited on Behalf of:** Amgen Inc.

**Identification Reference by Depositor:**

**Patent Deposit Designation**

Human IFNL cDNA subcloned into pSPORT vector and  
transfected into DH10B bacteria

PTA-976

The deposit was accompanied by:        a scientific description        a proposed taxonomic description indicated above.

The deposit was received November 23, 1999 by this International Depository Authority and has been accepted.

**AT YOUR REQUEST:** X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

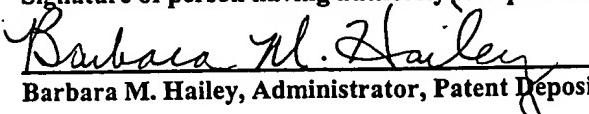
If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested December 1, 1999. On that date, the culture was viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA

**Signature of person having authority to represent ATCC:**

  
Barbara M. Hailey, Administrator, Patent Depository

Date: December 2, 1999

cc: Kevin Noonan (Ref. MBHB99,372 [A-632])